

**MINUTES
ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF CHATHAM
MAY 19, 2022**

Mr. Vivona called the Regular Meeting of the Zoning Board of Adjustment to order at 7:35 PM.

Adequate Notice of the meetings of the Zoning Board of Adjustment of the Township of Chatham was given as required by the Open Public Meetings Act as follows: Notice in the form of a Resolution setting forth the schedule of meetings for the year 2022, and January, 2023 was published in the Chatham Courier and the Morris County Daily Record, a copy filed with the Municipal Clerk and a copy placed on the bulletin board in the main hallway of the Municipal Building.

Roll Call

Answering present to the roll call were Mr. Vivona, Mr. Weston, Mr. McHugh, Mr. Silva and Mr. Sood.

Mr. Borsinger and Mr. Fitt were absent.

Also present was Board Engineer John Ruschke and Attorney Richard Oller filling in for Board Attorney Amanda Wolfe

Approval of Minutes

Mr. McHugh moved to approve the minutes of the April 21, 2022 meetings. Mr. Silva seconded the motion which carried unanimously.

Application to be Withdrawn

Calendar BOA 22-001 Mr. & Mrs. Colalucci, 170 Lafayette Avenue Block: 89 Lot: 21

Mr. Weston moved to accept the withdrawal of the application. Mr. Silva seconded the motion.

Roll Call: Mr. Vivona, Aye; Mr. Weston, Aye; Mr. Borsinger, Absent; Mr. Fitt, Absent; Mr. McHugh, Aye; Mr. Silva, Aye; Mr. Sood, Aye.

Hearings

Calendar BOA-22-004 Mr. Michael Gonnella, 60 Linden Lane, Block: 102.08 Lot: 31

Mr. Vivona provided an overview of the Zoning Board process and stated that the Site Visit will be on June 4th at 9:00 AM.

Michael Gonnella, the applicant, was sworn in to give testimony. He provided an overview of the application. Mr. Gonnella stated that a detached garage was built 8-feet away from the principal structure rather than 10-feet away from the principal structure. He noted that the

garage does not encroach on any neighboring property. The plans called for the garage to be 10 feet away, and it was a builder's error that it was built in the wrong spot.

Roosevelt Donat, the attorney representing the applicant, said that the summary provided by Mr. Gonnella was an excellent summary. The variance is requested due to the circumstances described by Mr. Gonnella.

Mr. Gonnella noted that the house and garage are both new construction.

Mr. Oller stated that the hearing is being carried to the June 16, 2022 meeting without further notice.

Calendar BOA 22-002 Taylored Properties, 75 Ormont Road. Block: 32 Lot: 14

Michael Convery, the attorney representing the applicant, asked that his client be called to testify.

Mr. Vivona asked that an overview of the application be provided, and said that the Site Visit will be held on June 4th at 9:30 AM. The applicant and his professionals were sworn in to give testimony.

Steve Parker, an engineer representing the applicant, provided his qualifications and was accepted as an expert. Mr. Parker stated that the origin of the application is with an existing single family home to which an addition was to be built. Mr. Parker described the slopes on the property. Some grading was done beyond the approved area, and a variance is needed because it exceeds two of the steep slope categories. The grading issue was discovered when a certificate of occupancy was sought. Some grading was restored when the problem was discovered. Mr. Parker also went over the review memo from Mr. Ruschke's office.

Mr. Vivona described the dilapidated condition of the prior home on the property, and said that the lot is difficult for building.

Mr. McHugh noted that he is recused on this application.

Mr. Vivona asked that the tree removal and replanting application be submitted prior to the next hearing date.

Mr. Oller stated that the site visit will be on June 4th at 9:30 AM and the next hearing will be on June 16th without additional notice.

Calendar BOA 21-018 Mr. Sebastiano Visentini, 7 Glenmere Drive. Block: 48.01 Lot: 11

Mr. Vivona gave an overview of the Zoning Board process. He stated that deliberations will be held at the June 16th meeting. Kimberly and Sebastiano Visentini, the applicants were sworn in to give testimony.

Mrs. Visentini provided an overview of the application.

Mr. Vivona asked how much over the application is on impervious coverage. Mr. Visentini said about 526 square feet. Mrs. Visentini said that there is also a request for a setback variance.

Mr. Vivona said that the constraints on the property will be considered, and the constraints will be discussed at the Site Visit. He asked that the site be marked out.

Mrs. Visentini described the screening.

Mr. Vivona opened the floor to questions from the public.

1. Cindy Hovi, 5 Runnymede Road, asked how water runoff will be affected onto her property. She also asked about the proposed retainer wall and if the ground will be raised to put in the proposed pool.

Richard Cording, a landscape designer representing the applicant, was sworn in to give testimony. Mr. Cording said that two underground seepage tanks are proposed, and they will be used to mitigate stormwater runoff. The seepage tanks will also collect water runoff from the downspouts. Mr. Cording addressed the stormwater calculations, and Mr. Vivona said that the numbers will be verified.

Mrs. Hovi asked for clarification on the retaining wall. Mr. Cording addressed the slope on the property and said that a level space is needed for the pool and the patio. The retaining wall meets the setback requirements. Mrs. Hovi expressed a concern about the impact of the retaining wall on water runoff. Mr. Cording said that there will be a decrease in runoff onto Mrs. Hovi's property. Mr. Vivona announced that the Site Visit will be on June 4th at 10:00 AM.

Mrs. Hovi asked about the arborvitae. Mr. Cording said it will remain. Mrs. Hovi asked about the proposed fencing. Mr. and Mrs. Visentini described it. Mr. Hovi expressed a concern about noise from parties. Mr. Vivona said that hypotheticals should not be discussed, and Mr. Oller said there is a noise ordinance.

Mr. Vivona closed the floor to the public.

Mr. Oller said that there will be a Site Visit on June 4th at 10:00 AM and the hearing will be carried to the June 16th meeting without further notice.

Calendar BOA 21-016 Mr. & Mrs. Mendrzycki 25 Garden Street Block 109 Lot 29

Mr. Vivona read the Site Visit Report into the record.

The applicant and their professionals were sworn in to give testimony.

Janet Siegel, the architect representing the applicant, provided an overview of the application. She stated that a variance is requested for the setbacks and the height.

Rudy Holman, the engineer representing the applicant, provided his qualifications and was accepted as an expert. Mr. Holman described the stormwater management system.

Mr. Vivona opened the floor for questions of the witness.

1. Janet Coley-Lima, 12 Mitchell Avenue, said that she has experienced significant water problems despite drywells on a neighboring property. She asked where the water goes when there is a drywell. Mr. Holzmann described the overflow design. Mrs. Coley-Lima asked if the property will be linked to the drainage for 23 Garden Street. She also addressed the history of drainage in the area. Mrs. Coley-Lima asked if Mr. Holzmann could state that there will not be additional runoff onto her property. Mr. Holzmann stated that a lot grading plan will be developed to conform with the Township's requirements. He also elaborated on the purpose of a lot grading plan.

Mr. Ruschke said that there is an inconsistency in the testimony by switching between measurements by volume and rate. He also commented on the poor soil conditions. Mr. Holzmann said that he has not yet quantified the amount of water.

2. Joe McManus, 9 Gates Avenue, said the neighborhood is a poor drainage area in which dry wells typically do not work well. The lots also slope into neighboring yards. Mr. McManus asked how the system will work. Mr. Holzmann said it will work by connecting roof leaders into an underground chamber if the perc rates show that it can have an open bottom. Mr. McManus asked if there is something revolutionary about the plan or if it is a standard solution that has been used before, Mr. Holzmann said he cannot address other properties in the neighborhood. Mr. McManus asked if there will be an increase in runoff. Mr. Holzmann said the system will be designed to not have an increase in peak runoff rates. Mr. Vivona commented on the surface flow.
3. Mrs. Coley-Lima asked for a guarantee that the property will be maintained. Mr. Vivona said that is the property owner's responsibility. Mr. Oller said that typically the Zoning Officer would have enforcement authority,

Mr. Banisch asked if there is an engineering reason why a conforming location could not be used. Mr. Holzmann said he was not involved in the selection of the location. He said that there were not any physical features on the property which would make that impossible. Mrs. Siegel commented on earlier testimony about aesthetics and providing air and light to the backyard. She said it could be set back 15 feet and a two car garage is allowed.

Aaron Kardon, the planner representing the applicant, provided his qualifications and was accepted as an expert. Mr. Kardon described the site. He also described the variances requested, and noted that C variances are requested. Mr. Kardon discussed the criteria for granting a C Variance for a home office in an accessory structure.

Mr. Vivona said that the application is not ready to be brought up for a vote, as the proofs for the variance have not yet been met and the drainage questions need to be fully answered. He also

noted that the drainage issues affect several neighbors. Mr. Vivona said that a perc test needs to be performed to see if the structure can be built.

Mr. Siegel asked if the Board has jurisdiction over the buildability of the structure. Mr. Oller stated that the Board needs to consider potential negative impacts to neighbors. Mr. Kardon said that the applicant is willing to work toward a solution, and he said that the applicant is looking to improve upon the site. Mr. Oller said that the Board wants to be sure that further improvements to the site will not adversely affect the neighbors.

Mr. Banisch stated that the requirement for the applicant to demonstrate no substantial detriment is a high burden to meet based on what is known about the neighborhood.

The hearing will be carried to June 16th so that additional information can be gathered about the drainage.

Michael Pessolano, a planner representing a neighbor, stated he is not available on June 16th.

Mr. Vivona opened the floor for questions from the public for Mr. Kardon.

1. Jacqueline Fusco, 26 Mitchell Avenue, asked if there are any trees being removed. Mr. Kardon said that would be a question for Mrs. Siegel. Mrs. Fusco asked about the hardship variance, and said that the hardship variance would not be met because the structure could be built elsewhere in conformance. Mr. Kardon addressed the appropriateness of the site selection and the C1 criteria. Mrs. Fusco said it has not been made clear why the requirements have not been met.
2. Ed Lima, 12 Mitchell Avenue, asked what the official use of the structure would be. He said that prior testimony had indicated that it would be an art studio for children, and later testimony was that it will be an office. Mr. Kardon said his testimony was that it will be a home office, and there will not be any plumbing so that it cannot be converted into an apartment. Mr. Lima asked why a home office would need to be so large. Mr. Lima asked how many comparable home offices there are in Chatham Township. Mr. Vivona said there are six and he described the scenarios. Mr. Lima asked about the landscaping. Mr. Kardon said there are buffer trees on the site. Mr. Lima asked about stormwater being inserted into soil that is already saturated. Mr. Kardon said the engineer will be addressing that matter. Mr. Lima asked about working from home post-pandemic. Mr. Kardon said that the market has changed to have more remote working.
3. Stefanie Stuart, 11 Mitchell Avenue, asked why an accessory structure would advance the objectives of the Master Plan more than an addition to the house. Mr. Kardon said that the objective is to have a separate space from the living space. Mrs. Stuart asked how there could be baseboard heating without plumbing. Mr. Kardon said it would be electric. Mrs. Stuart asked how the office will impact the neighborhood and if there will be traffic from clients. Mr. Kardon said that the homeowners will typically be the only ones in the office. He also said most collaborations will likely be conference calls.

4. Kathy Abbott, 40 Wynwood Road, asked about trendsetting. Mr. Kardon said that he cannot say if the accessory home office will be the new trend. Mr. Vivona noted that the Planning Board deals with Master Plan updates.
5. Mark Lois, 15 Gates Avenue, asked if the applicant needed variances for the recent remodel of their home. Mr. Kardon stated that variances were not needed. Mr. Lois stated that it appears that the nonconforming shape of the lot would require a variance for any addition. He asked how the accessory structure would add to the value of neighboring properties. Mr. Kardon said an increase in housing options increases values. Mr. Lois asked about adequate light and air. Mr. Kardon said that will be re-addressed.
6. Wei Guan, 14 Mitchell Avenue, asked about the potential impact on his property value. Mr. Kardon said that the diversity of housing options makes homes more desirable.
7. Mrs. Fusco asked what would stop some future homeowner from putting in drainage pipes. Mr. Kardon said that permits would be required.
8. Mrs. Coley-Lima asked if there is a guarantee that clients will not visit the home office. Mr. Kardon said that was not part of his testimony. Mrs. Coley-Lima asked if she is part of the community that will benefit. Mr. Kardon said she will. Mrs. Coley-Lima asked if Mr. Kardon has seen how the structure will look from her property. She also asked if Mr. Kardon is aware of a similar structure in the neighborhood. Mr. Kardon said he is not.

Mr. Vivona closed the floor to the public.

The hearing is being carried to July 21 without further notice.

Mr. McHugh moved to adjourn at 10:50 PM. Mr. Silva seconded the motion, and the motion carried unanimously.

Gregory J. LaConte
Recording Secretary